

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7187

BILL NUMBER: SB 385

NOTE PREPARED: Jan 5, 2013

BILL AMENDED:

SUBJECT: Regional Sewage Districts.

FIRST AUTHOR: Sen. Charbonneau

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Wholesale and Retail Rates:* The bill imposes certain requirements on regional sewage treatment providers and certain customers.

Utility Regulatory Commission: It provides that the Utility Regulatory Commission (IURC) may resolve disputes over rates and charges between a regional sewage treatment provider (provider) and a customer without otherwise making the provider subject to the jurisdiction of the IURC.

Annexation: The bill provides that the provision and receipt of sewage treatment service may not be conditioned on a customer's waiver of the right to remonstrate against annexation.

Effective Date: July 1, 2013.

Explanation of State Expenditures: *Utility Regulatory Commission:* The IURC may experience increased administrative costs as a result of this bill. The amount of the increase is indeterminate, but will be based on the number of cases brought concerning wholesale rates and the rule making process.

Background: Under the bill, the IURC may adopt rules to implement uniform rates and charges for wholesale ratepayers of the same class of a regional sewage treatment provider to expedite wholesale rate cases, to avoid litigating rate cases, and to serve the public interest. However, the IURC is not authorized to review or revise rates for other customer classes or for other types of services, or to approve rates and charges for any other purpose. Additionally, in certain circumstances, the IURC may approve a provider's refusal to provide additional or expanded services to a wholesale customer.

Explanation of State Revenues: *Wholesale and Retail Rates:* To the extent that a district or political subdivision that receives sewage treatment service (customer) from another political subdivision that provides sewage treatment services and establishes rates and charges for sewage treatment by ordinance or contract (provider) may convert from a retail rate to a wholesale rate, Utility Receipts Tax (URT), Utility Services Use Tax (USUT), and Sales Tax revenues could be affected. Any change in the amount collected is indeterminate and will be based on the application of the taxes to the wholesale amount and any application to the resale amount.

Annexation: The bill could increase revenues from court fees for annexation remonstrance petition filings by creating an exemption from a contract between a works board of a municipal and a real property owner to include the release of the right to remonstrate against pending or future annexations. [The bill also provides that a provider cannot require a customer to waive a right to remonstrate, but political subdivisions are not required to pay court fees to file petitions.]

Background: Wholesale and Retail Rates: The rate for both the URT and USUT is 1.4%. The URT is calculated on the gross receipts of all entities providing the retail sale of utility services in Indiana. The USUT is imposed on the retail consumption of utility services in Indiana. Both the URT and USUT are deposited in the state General Fund.

Sales Tax revenue is deposited in the state General Fund (99.848%), the Commuter Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%).

Annexation: If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana. And proceeds from the automated record keeping fee (\$5) are deposited into the state User Fee Fund.

Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: *Wholesale and Retail Rates:* Certain customers could achieve cost savings if they require a provider to convert from a retail rate to a wholesale rate. The savings are indeterminate based on the rate differential. If the provider supplies the same services to other retail ratepayers and the provider owns the local collection system and the sewage treatment plant the customer may not be able to pay wholesale rates.

Explanation of Local Revenues: *Wholesale and Retail Rates:* Certain customers may have additional revenue if the rate they charge the ultimate customer is higher than the wholesale rate. The amount is indeterminate and will be based on the rates set by the customer and the rates charged by the provider.

Annexation: If additional civil actions occur, local governments would receive revenue from the following

sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds.

The document storage fee (\$2) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- Service fee (\$10) collected from the filing party for each defendant beyond the first cited in the lawsuit.

State Agencies Affected: IURC

Local Agencies Affected: Districts or political subdivisions receiving services and political subdivisions providing services.

Information Sources:

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